

ASSEMBLY BILL

No. 1386

Introduced by Assembly Member Laird

February 22, 2005

An act to amend Sections 1646.4, 1646.5, 1647, 1647.1, 1647.2, 1647.3, 1647.10, 1647.11, 1647.12, and 1647.14 of, to add Article 2.86 (commencing with Section 1647.18) to Chapter 4 of Division 2 of, and to repeal Section 1647.4 of, the Business and Professions Code, relating to dentistry.

LEGISLATIVE COUNSEL'S DIGEST

AB 1386, as introduced, Laird. Dentistry: oral conscious sedation.

Existing law provides for the licensing and regulation of dentists by the Dental Board of California. Existing law prohibits a dentist from administering or supervising the administration of general anesthesia, as defined, on an outpatient basis for dental patients unless the dentist has a general anesthesia permit from the Board of Dental Examiners. Existing law requires a permittee to meet specified requirements, including permitting onsite inspection and evaluation at least once every 6 years and completing 15 hours of approved courses of study related to general anesthesia as a condition of renewal.

This bill would instead require an onsite inspection and evaluation at least once every 5 years, and would require a permittee to complete 24 hours of approved courses of study related to general anesthesia as a condition of renewal.

Existing law generally prohibits a dentist from administering or ordering the administration of conscious sedation, as defined, on an outpatient basis unless the dentist has a general anesthesia permit or has a conscious sedation permit from the board. Existing law sets forth specified requirements that must be met in order to receive a

conscious sedation permit, including educational requirements, and sets forth certain activities that constitute unprofessional conduct with respect to conscious sedation.

This bill would revise the definition of conscious sedation and oral conscious sedation, and would specify that a patient whose only response is flex withdrawal from painful stimuli is not in a state of conscious sedation or oral conscious sedation.

Existing law authorizes a dentist without a permit to administer, or order the administration of, oral conscious sedation for minor patients if he or she registers his or her name with the board and meets specified requirements, including certain advanced education or residency requirements. Existing law sets forth precautions for dentists to take applicable to the oral conscious sedation of minors. A violation of the provisions governing the oral conscious sedation of minors constitutes unprofessional conduct.

This bill would revise the advanced education and residency requirements. The bill would also authorize a dentist without a permit to administer, or order the administration of, oral conscious sedation for adult patients if he or she registers his or her name with the board, pays an application fee, and meets specified requirements. The bill would set forth precautions for dentists to take applicable to the oral conscious sedation of adults. The bill would make a violation of the provisions governing the oral conscious sedation of adults unprofessional conduct, subject to revocation or suspension of the dentist's permit, certificate, or license, or all 3, or reprimand or probation. The bill would also require, in all cases of oral conscious sedation, that the drugs or techniques used have a margin of safety wide enough to render unintended loss of consciousness unlikely, and would require for very young or handicapped individuals incapable of the usually expected verbal response a minimally depressed level of consciousness to be maintained.

This bill would delete obsolete related provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1646.4 of the Business and Professions
- 2 Code is amended to read:

1 1646.4. (a) Prior to the issuance or renewal of a permit for
2 the use of general anesthesia, the board may, at its discretion,
3 require an onsite inspection and evaluation of the licentiate and
4 the facility, equipment, personnel, and procedures utilized by the
5 licentiate. The permit of any dentist who has failed an onsite
6 inspection and evaluation shall be automatically suspended 30
7 days after the date on which the board notifies the dentist of the
8 failure, unless within that time period the dentist has retaken and
9 passed an onsite inspection and evaluation. Every dentist issued a
10 permit under this article shall have an onsite inspection and
11 evaluation at least once every ~~six~~ *five* years. Refusal to submit to
12 an inspection shall result in automatic denial or revocation of the
13 permit.

14 (b) The board may contract with public or private
15 organizations or individuals expert in dental outpatient general
16 anesthesia to perform onsite inspections and evaluations. The
17 board may not, however, delegate its authority to issue permits or
18 to determine the persons or facilities to be inspected.

19 SEC. 2. Section 1646.5 of the Business and Professions Code
20 is amended to read:

21 1646.5. A permittee shall be required to complete ~~15~~ 24 hours
22 of approved courses of study related to general anesthesia as a
23 condition of renewal of a permit. Those courses of study shall be
24 credited toward any continuing education required by the board
25 pursuant to Section 1645.

26 SEC. 3. Section 1647 of the Business and Professions Code is
27 amended to read:

28 1647. (a) The Legislature finds and declares that a
29 commendable patient safety record has been maintained in the
30 past by dentists and those other qualified providers of anesthesia
31 services who, pursuant to a dentist's authorization, administer
32 patient sedation, and that the increasing number of
33 pharmaceuticals and techniques used to administer them for
34 patient sedation require additional regulation to maintain patient
35 safety in the future.

36 (b) The Legislature further finds and declares all of the
37 following:

38 (1) That previous laws enacted in 1980 contained separate and
39 distinct definitions for general anesthesia and the state of
40 consciousness.

(2) That in dental practice, there is a continuum of sedation used which cannot be adequately defined in terms of consciousness and general anesthesia.

(3) That the administration of sedation through this continuum results in different states of consciousness that may or may not be predictable in every instance.

(4) That in most instances, the level of sedation will result in a predictable level of consciousness during the entire time of sedation.

(c) The Legislature further finds and declares that the educational standards presently required for general anesthesia should be required when the degree of sedation in the continuum of sedation is such that there is a reasonable possibility that loss of consciousness may result, even if unintended. These degrees of sedation have been referred to as “~~deep-conscious~~ sedation” and “light general anesthesia” in dental literature. However, achieving the degree of sedation commonly referred to as “light conscious sedation,” where a margin of safety exists wide enough to render unintended loss of consciousness unlikely, requires educational standards appropriate to the administration of the resulting predictable level of consciousness.

SEC. 4. Section 1647.1 of the Business and Professions Code is amended to read:

1647.1. (a) As used in this article, “conscious sedation” means a minimally depressed level of consciousness produced by a pharmacologic or nonpharmacologic method, or a combination thereof, that retains the patient’s ability to maintain independently and continuously an airway, and respond appropriately to physical stimulation ~~and~~ or verbal command.

“Conscious sedation” does not include ~~conditions resulting from~~ the administration of oral medications or the administration of a mixture of nitrous oxide and oxygen, whether administered alone or in combination with each other.

(b) The drugs and techniques used in conscious sedation shall have a margin of safety wide enough to render unintended loss of consciousness unlikely. *Further, patients whose only response is flex withdrawal from painful stimuli shall not be considered to be in a state of conscious sedation.*

1 (c) For the very young or handicapped individual, incapable of
2 the usually expected verbal response, a minimally depressed
3 level of consciousness for that individual should be maintained.

4 SEC. 5. Section 1647.2 of the Business and Professions Code
5 is amended to read:

6 1647.2. (a) ~~On and after January 1, 1992, no~~ No dentist shall
7 administer or order the administration of, conscious sedation on
8 an outpatient basis for dental patients unless one of the following
9 conditions is met:

10 (1) The dentist possesses a current license in good standing to
11 practice dentistry in California and either holds a valid general
12 anesthesia permit or obtains a permit issued by the board
13 authorizing the dentist to administer conscious sedation.

14 (2) The dentist possesses a current permit under Section 1638
15 or 1640 and either holds a valid anesthesia permit or obtains a
16 permit issued by the board authorizing the dentist to administer
17 conscious sedation.

18 (b) A conscious sedation permit shall expire on the date
19 specified in Section 1715 which next occurs after its issuance,
20 unless it is renewed as provided in this article.

21 (c) This article shall not apply to the administration of local
22 anesthesia or to general anesthesia.

23 (d) A dentist who orders the administration of conscious
24 sedation shall be physically present in the treatment facility while
25 the patient is sedated.

26 SEC. 6. Section 1647.3 of the Business and Professions Code
27 is amended to read:

28 1647.3. (a) A dentist who desires to administer or order the
29 administration of conscious sedation, shall apply to the board on
30 an application form prescribed by the board. The dentist shall
31 submit an application fee and produce evidence showing that he
32 or she has successfully completed a course of training in
33 conscious sedation which meets the requirements of subdivision
34 (c).

35 (b) The application for a permit shall include documentation
36 that equipment and drugs required by the board are on the
37 premises.

38 (c) A course in the administration of conscious sedation shall
39 be acceptable if it meets all of the following as approved by the
40 board:

1 (1) Consists of at least 60 hours of instruction.

2 (2) Requires satisfactory completion of at least 20 cases of
3 administration of conscious sedation for a variety of dental
4 procedures.

5 (3) Complies in all respects with the requirements of the 1985
6 Guidelines for Teaching the Comprehensive Control of Pain and
7 Anxiety and Pain in Dentistry of the American Dental
8 Association.

9 SEC. 7. Section 1647.4 of the Business and Professions Code
10 is repealed.

11 ~~1647.4. (a) On or before June 30, 1991, each dentist who has~~
12 ~~been using conscious sedation prior to January 1, 1990, shall~~
13 ~~make a permit application to the board if the dentist desires to~~
14 ~~continue to administer conscious sedation. The permit~~
15 ~~application shall document 20 cases of conscious sedation~~
16 ~~performed by the applicant subsequent to January 1, 1989. A~~
17 ~~dentist applying pursuant to this section shall pass an onsite~~
18 ~~inspection and evaluation of the licensee and the facility,~~
19 ~~equipment, personnel, and procedures utilized by the licensee,~~
20 ~~prior to the issuance of a permit.~~

21 ~~(b) If an applicant under this section documents successful~~
22 ~~completion of a course of study in conscious sedation which met~~
23 ~~the requirements of the 1982 Guidelines for Teaching the~~
24 ~~Comprehensive Control of Pain and Anxiety in Dentistry of the~~
25 ~~American Dental Association, the board may grant the applicant~~
26 ~~a temporary permit for one year.~~

27 ~~(c) An applicant who holds a temporary permit shall pass an~~
28 ~~onsite inspection and evaluation prior to expiration of the~~
29 ~~temporary permit. Failure to pass the inspection and evaluation~~
30 ~~shall result in the immediate and automatic termination of the~~
31 ~~temporary permit. In the event the board is unable to complete~~
32 ~~the required inspection and evaluation prior to December 31,~~
33 ~~1992, the board may extend the temporary permit for no more~~
34 ~~than one additional year.~~

35 SEC. 8. Section 1647.10 of the Business and Professions
36 Code is amended to read:

37 1647.10. As used in this article:

38 (a) "Oral conscious sedation" means a minimally depressed
39 level of consciousness produced by oral medication that retains
40 the patient's ability to maintain independently and continuously

1 an airway, and respond appropriately to physical stimulation ~~and~~
2 or verbal command.

3 (1) *The drugs and techniques used in oral conscious sedation*
4 *shall have a margin of safety wide enough to render unintended*
5 *loss of consciousness unlikely. Further, patients whose only*
6 *response is reflex withdrawal from painful stimuli would not be*
7 *considered to be in a state of oral conscious sedation.*

8 (2) *For very young or handicapped individuals, incapable of*
9 *the usually expected verbal response, a minimally depressed*
10 *level of consciousness should be maintained.*

11 (b) “Minor patient” means a dental patient under the age of 13
12 years.

13 (c) “Certification” means the issuance of a certificate to a
14 dentist licensed by the board who provides the board with his or
15 her name, and the location where the administration of oral
16 conscious sedation will occur, and fulfills the requirements
17 specified in Sections 1647.12 and 1647.13.

18 SEC. 9. Section 1647.11 of the Business and Professions
19 Code is amended to read:

20 1647.11. (a) Notwithstanding subdivision (a) of Section
21 1647.2, ~~after December 31, 2000,~~ a dentist may not administer
22 oral conscious sedation on an outpatient basis to a minor patient
23 unless one of the following conditions is met:

24 (1) The dentist possesses a current license in good standing to
25 practice dentistry in California and either holds a valid general
26 anesthesia permit, conscious sedation permit, or has been
27 certified by the board, pursuant to Section 1647.12, to administer
28 oral sedation to minor patients.

29 (2) The dentist possesses a current permit issued under Section
30 1638 or 1640 and either holds a valid general anesthesia permit,
31 or conscious sedation permit, or possesses a certificate as a
32 provider of oral conscious sedation to minor patients in
33 compliance with, and pursuant to, this article.

34 (b) Certification as a provider of oral conscious sedation to
35 minor patients expires at the same time the license or permit of
36 the dentist expires unless renewed at the same time the dentist’s
37 license or permit is renewed after its issuance, unless certification
38 is renewed as provided in this article.

39 (c) This article shall not apply to the administration of local
40 anesthesia or a mixture of nitrous oxide and oxygen or to the

1 administration, dispensing, or prescription of postoperative
2 medications.

3 SEC. 10. Section 1647.12 of the Business and Professions
4 Code is amended to read:

5 1647.12. A dentist who desires to administer, or order the
6 administration of, oral conscious sedation for minor patients,
7 who does not hold a general anesthesia permit as provided in
8 Sections 1646.1 and 1646.2 or a conscious sedation permit as
9 provided in Sections 1647.2 and 1647.3, shall register his or her
10 name with the board on a board-prescribed registration form. The
11 dentist shall submit the registration fee and evidence showing
12 that he or she satisfies any of the following requirements:

13 (a) Satisfactory completion of a postgraduate program in oral
14 and maxillofacial surgery; *or* pediatric dentistry; ~~or periodontics~~
15 ~~at a dental school~~ approved by either the Commission on Dental
16 Accreditation or a comparable organization approved by the
17 board.

18 (b) Satisfactory completion of a *periodontics or* general
19 practice residency or other advanced education in a general
20 dentistry program approved by the board.

21 (c) Satisfactory completion of a board-approved educational
22 program on oral medications and sedation.

23 SEC. 11. Section 1647.14 of the Business and Professions
24 Code is amended to read:

25 1647.14. (a) A physical evaluation and medical history shall
26 be taken before the administration of, oral conscious sedation to
27 a minor. Any dentist who administers, or orders the
28 administration of, oral conscious sedation to a minor shall
29 maintain records of the physical evaluation, medical history, and
30 oral conscious sedation procedures used as required by the board
31 regulations.

32 (b) A dentist who administers, or who orders the
33 administration of, oral *conscious* sedation for a minor patient
34 shall be physically present in the treatment facility while the
35 patient is sedated and shall be present until discharge of the
36 patient from the facility.

37 (c) The drugs and techniques used in oral conscious sedation
38 to minors shall have a margin of safety wide enough to render
39 unintended loss of consciousness unlikely.

1 SEC. 12. Article 2.86 (commencing with Section 1647.18) is
2 added to Chapter 4 of Division 2 of the Business and Professions
3 Code, to read:

4
5 Article 2.86. Use of Oral Conscious Sedation for Adult
6 Patients
7

8 1647.18. As used in this article, the following terms have the
9 following meanings:

10 (a) "Adult patient" means a dental patient 13 years of age or
11 older.

12 (b) "Certification" means the issuance of a certificate to a
13 dentist licensed by the board who provides the board with his or
14 her name and the location at which the administration of oral
15 conscious sedation will occur, and fulfills the requirements
16 specified in Sections 1647.12 and 1647.13.

17 (c) "Oral conscious sedation" means a minimally depressed
18 level of consciousness produced by oral medication that retains
19 the patient's ability to maintain independently and continuously
20 an airway, and respond appropriately to physical stimulation or
21 verbal command.

22 (1) The drugs and techniques used in oral conscious sedation
23 shall have a margin of safety wide enough to render unintended
24 loss of consciousness unlikely. Further, patients whose only
25 response is reflex withdrawal from painful stimuli would not be
26 considered to be in a state of oral conscious sedation.

27 (2) For the handicapped individual, incapable of the usually
28 expected verbal response, a minimally depressed level of
29 consciousness for that individual should be maintained.

30 1647.19. (a) Notwithstanding subdivision (a) of Section
31 1647.2, a dentist may not administer oral conscious sedation on
32 an outpatient basis to an adult patient unless the dentist possesses
33 a current license in good standing to practice dentistry in
34 California, and one of the following conditions is met:

35 (1) The dentist either holds a valid general anesthesia permit,
36 conscious sedation permit, or has been certified by the board,
37 pursuant to Section 1647.20, to administer oral sedation to adult
38 patients.

39 (2) The dentist possesses a current permit issued under Section
40 1638 or 1640 and either holds a valid general anesthesia permit,

1 or conscious sedation permit, or possesses a certificate as a
2 provider of oral conscious sedation to adult patients in
3 compliance with, and pursuant to, this article.

4 (b) Certification as a provider of oral conscious sedation to
5 adult patients expires at the same time the license or permit of the
6 dentist expires unless renewed at the same time the dentist's
7 license or permit is renewed after its issuance, unless certification
8 is renewed as provided in this article.

9 (c) This article shall not apply to the administration of local
10 anesthesia or a mixture of nitrous oxide and oxygen, or to the
11 administration, dispensing, or prescription of postoperative
12 medications.

13 1647.20. A dentist who desires to administer, or order the
14 administration of, oral conscious sedation for adult patients, who
15 does not hold a general anesthesia permit as provided in Sections
16 1646.1 and 1646.2 or a conscious sedation permit, as provided in
17 Sections 1647.2 and 1647.3, shall register his or her name with
18 the board on a registration form prescribed by the board. The
19 dentist shall submit the registration fee and evidence showing
20 that he or she satisfies any of the following requirements:

21 (a) Satisfactory completion of a postgraduate program in oral
22 and maxillofacial surgery approved by either the Commission on
23 Dental Accreditation or a comparable organization approved by
24 the board.

25 (b) Satisfactory completion of a periodontics or general
26 practice residency or other advanced education in a general
27 dentistry program approved by the board.

28 (c) Satisfactory completion of a board-approved educational
29 program on oral medications and sedation.

30 (d) For an applicant who has been using oral conscious
31 sedation in connection with the treatment of adult patients,
32 submission of documentation as required by the board of 10
33 cases of oral conscious sedation satisfactorily performed by the
34 applicant on adult patients in any three-year period ending no
35 later than August 31, 2004.

36 1647.21. A certificate holder shall be required to complete a
37 minimum of seven hours of approved courses of study related to
38 oral conscious sedation of adult patients as a condition of
39 certification renewal as an oral conscious sedation provider.

1 Those courses of study shall be accredited toward any continuing
2 education required by the board pursuant to Section 1645.

3 1647.22. (a) A physical evaluation and medical history shall
4 be taken before the administration of oral conscious sedation to
5 an adult. Any dentist who administers, or orders the
6 administration of, oral conscious sedation to an adult shall
7 maintain records of the physical evaluation, medical history, and
8 oral conscious sedation procedures used as required by the board
9 regulations.

10 (b) A dentist who administers, or who orders the
11 administration of, oral conscious sedation for an adult patient
12 shall be physically present in the treatment facility while the
13 patient is sedated, and shall be present until discharge of the
14 patient from the facility.

15 (c) The drugs and techniques used in oral conscious sedation
16 to adults shall have a margin of safety wide enough to render
17 unintended loss of consciousness unlikely.

18 1647.23. The fee for an application for initial certification or
19 renewal under this article shall not exceed the amount necessary
20 to cover administration and enforcement costs incurred by the
21 board in carrying out this article. The listed fee may be prorated
22 based upon the date of the renewal of the dentist's license or
23 permit.

24 1647.24. Any office in which oral conscious sedation of adult
25 patients is conducted pursuant to this article shall, unless
26 otherwise provided by law, meet the facilities and equipment
27 standards set forth by the board in regulation.

28 1647.25. A violation of any provision of this article
29 constitutes unprofessional conduct and is grounds for the
30 revocation or suspension of the dentist's permit, certificate,
31 license, or all three, or the dentist may be reprimanded or placed
32 on probation. The proceedings under this section shall be
33 conducted in accordance with Chapter 5 (commencing with
34 Section 11500) of Part I of Division 3 of Title 2 of the
35 Government Code, and the board shall have all the powers
36 granted therein.